

**REGULAR MEETING – FEBRUARY 23, 2009 – 7:30 P.M.**

**Pledge of Allegiance.**

**Roll Call: Commissioner McGovern, Commissioner Gorman, Mayor Mahon.**

**Borough Clerk reads the following statement:**

**This is a regular meeting of the Board of Commissioners of the Borough of Avon-By-The-Sea and notice of time, date and place has been transmitted to the area newspapers, Avon Board of Education, Avon Public Library and the Avon Post Office in compliance with the rules and regulations of the Open Public Meetings Law.**

**Fire Exits are located in the directions I am indicating. In case of fire, you will be notified by an alarm bell. If so notified, please move in a calm, orderly manner to the nearest smoke free exit. Thank you.**

**Motion by McGovern seconded by Mahon that the minutes of the meeting of February 9, 2009 be approved as written.**

**The Vote:**

**Aye: All**

**No: None**

**Mayor announces that this is the time advertised for second reading and hearing on Ordinance No. 2-2009 entitled:**

**“ AN ORDINANCE AMENDING AND SUPPLEMENTING  
THE CODE OF THE BOROUGH OF AVON-BY-THE-SEA,  
CHAPTER 29, ENTITLED “OFFICERS AND EMPLOYEES.”**

**WHEREAS, no municipality may enact an ordinance, resolution or other form of legislation creating an offense of public intoxication or any equivalent offense; and**

**WHEREAS, pursuant to New Jersey State Statutes, any ordinance, resolution or other form of legislation creating an offense of public intoxication or any equivalent offense is repealed; and**

**WHEREAS, the Borough of Avon-by-the-Sea desires to repeal 128-3 of the Municipal Code of the Borough of Avon-by-the-Sea because it conflicts with New Jersey State Statute.**

**NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Borough of Avon-by-the-Sea that 128-3 of the Municipal Code of the Borough of Avon-by-the-Sea be and same hereby is repealed.**

**Would anyone like to be heard on the above ordinance? No one.**

**Motion by McGovern seconded by Mahon that the above Ordinance No. 2-2009 be approve on second reading and its passage published in a newspaper as required by law.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Gorman seconded by McGovern that,**

**ORDINANCE NO. 3-2009 entitled:**

**“AN ORDINANCE REPEALING 128-3 OF THE  
MUNICIPAL CODE OF THE BOROUGH OF  
AVON-BY-THE-SEA, MONMOUTH COUNTY.”**

**be introduced on first reading.**

**The Vote:**

**Aye: All**

**No: None**

**Motion by McGovern seconded by Mahon that the above Ordinance No. 3-2009 be taken up on second reading with a hearing on March 9, 2009 at 7:30 p.m. in the Municipal Building.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by McGovern seconded by Mahon that,**

**ORDINANCE NO. 4-2009 entitled:**

**“ AN ORDINANCE TO EXCEED THE MUNICIPAL  
BUDGET APPROPRIATION LIMITS AND TO  
ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14) ”**

**be introduced on first reading.**

**The Vote:**

**Aye: All**

**No: None**

**Motion by McGovern seconded by Mahon that the above Ordinance No. 4-2009 be taken up on second reading with a hearing on March 9, 2009 at 7:30 p.m. in the Municipal Building.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Gorman seconded by McGovern that,**

**ORDINANCE NO. 5-2009 entitled:**

**“ AN ORDINANCE REPEALING AND AMENDING,  
IN ITS ENTIRETY, CHAPTER 32 OF THE CODE  
OF THE BOROUGH OF AVON-BY-THE-SEA,  
ENTITLED “POLICE DEPARTMENT”. ”**

**be introduced on first reading.**

**The Vote:**

**Aye: All**

**No: None**

**Motion by Gorman seconded by McGovern that the above Ordinance No. 5-2009 be taken up on second reading with a hearing on March 9, 2009 at 7:30 p.m. in the Municipal Building.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by McGovern seconded by Mahon that,**

**WHEREAS, certain federal funds are potentially available to Monmouth County through the Housing and Community Development Act of 1974, as amended; and**

**WHEREAS, the United States Department of Housing and Urban Development has allocated funding to the County of Monmouth for FY 2009; and**

**WHEREAS, the County is making some of these funds available to certain participating municipalities and non-profit agencies; and**

**WHEREAS, it is required that the Borough of Avon-By-The-Sea execute a project agreement with Monmouth County to undertake a project known as Beachfront Handicap Access Renovation & Installation; and**

**WHEREAS, the U.S. Department of Housing and Urban Development is requiring that the Mayor of the Borough of Avon-By-The-Sea sign additional certifications in order to receive these funds; and**

**WHEREAS, the Borough of Avon-By-The-Sea has adopted a policy prohibiting the use of excessive force by its law enforcement agency (police force) within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and**

**WHEREAS, a copy of that policy is attached to and made part of this resolution.**

**NOW, THEREFORE, BE IT RESOLVED, that the Borough of Avon-By-The-Sea has met the conditions of receiving a FY 2009 allocation by adopting a policy prohibiting the use of excessive force and by not using federal funds for lobbying or by disclosing that funds have been used for lobbying.**

**BE IT FURTHER RESOLVED, that the Mayor of the Borough of Avon-By-The-Sea is hereby authorized to sign the attached certifications which will become part of the FY 2009 Project Agreement.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Gorman seconded by McGovern that,**

**WHEREAS, certain federal funds are potentially available to Monmouth County under the Housing and Community Development Act of 1974, as amended; and**

**WHEREAS, the County of Monmouth expects to receive an allocation for FY 2009 from the United States Department of Housing and Urban Development; and**

**WHEREAS, the County of Monmouth has submitted its Annual Plan for FY 2009 to the U.S. Department of Housing and Urban Renewal, which included a project hereinafter referred to as Beachfront Handicap Access Renovation & Installation with a grant allocation of \$65,997.00; and**

**WHEREAS, the Borough of Avon-By-The-Sea has hereby met all the requirements for the release of funds to begin incurring costs for this project; and**

**WHEREAS, the Borough of Avon-By-The-Sea has filed with the Monmouth County Community Development Program an acceptable "TIMETABLE FOR PROJECT COMPLETION AND EXPENDITURE OF GRANT FUNDS," which is included as Appendix I of the Project Agreement.**

**NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Municipal Clerk of the Borough of Avon-By-The-Sea are hereby authorized to execute with the County of Monmouth the attached Project Agreement.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by McGovern seconded by Gorman that the Board of Commissioners hereby authorize the refund of first quarter 2009 property tax payments to the following:**

**Block 53 Lot 9.02      Kogan      4 Washington Avenue      \$45.95**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Mahon seconded by McGovern that the Board of Commissioners hereby approve the following due dates of the cycle one and four (whole town) accounts for the first half 2009 water/sewer billing:**

**First Quarter 2009 due April 1, 2009  
Second Quarter 2009 due June 1, 2009**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by McGovern seconded by Gorman that a contract for a new roof on the Pump House on Woodland Avenue be awarded to Ben Cuttrell for the low quote of \$19,200.00.**

**The Vote:**

**Aye: All**

**No: None**

**Motion by Gorman seconded by McGovern that the bills in the amount of \$178,175.49 be approved for payment.**

**The Vote:**

**Aye: All**

**No: None**

**Mayor asks if anyone would like to be heard?**

**Someone asked for an update on plans to re-do the lanes. Mayor – we did a survey of the lanes to prioritize them. We got a rough estimate on the cost. At the time we did that, we hadn't done any work on the sewer lines. We didn't want to do any major work on the lanes until we knew what was going on with the lines. We now have the info. and have to get an interpretation from our engineer as to condition of the sewer lines. Once we find out what lines need to be replaced, we can start working on the lanes. It will take a number of years to complete.**

**Comm. McGovern asked if anyone had any thoughts on the “no smoking on beach” ordinance that Belmar is proposing. Comm. Gorman thought it would be impossible to enforce. Mayor Mahon thought it may be easier to enforce than the current “smoking area”.**

**Motion by McGovern seconded by Mahon that being there is no further business, the meeting is adjourned.**

**The Vote:**

**Aye: All**

**No: None**

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**Robert Mahon, Mayor**

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**Robert P. McGovern, Commissioner**

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**Francis E. Gorman, Commissioner**

**Attest:**

**Timothy M. Gallagher, RMC  
Borough Clerk**